

REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed on January 22, 2008. In the Office Action, the Examiner notes that claims 1-3, 6, 7 and 10-21 are pending and rejected.

In view of the following remarks, Applicants respectfully traverse the rejection and submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all the claims are allowable.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

REJECTION OF CLAIMS 1-3, 6-7 AND 10-21 UNDER 35 U.S.C. §103

The Examiner has rejected claims 1-3, 6-7 and 10-21 under 35 U.S.C. §103(a) as being unpatentable over Pandya et al. (USPN 6,671,724, hereinafter "Pandya") in view of Jones et al. (USPN 6,687,335, hereinafter "Jones") in further view of Vaid et al. (USPN 6,502,131, hereinafter "Vaid").

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The Pandya, Jones and Vaid references alone or in combination fail to teach or suggest Applicants' invention as a whole.

Applicants' independent claims 1, 19 and 20 recite:

1. A method for monitoring, from a remote location comprising a monitor and control unit, operations of a head-end in an information distribution system, the method comprising:

- receiving at the monitor and control unit status from the head-end relating to operations performed at the head-end;
- displaying, via a graphical user interface, at the monitor and control unit the status from the head-end relating to operations performed at the head-end including at least a video bit rate;
- providing, via the graphical user interface, a user configurable menu to define error conditions;
- providing, via the graphical user interface, an option to activate an audible alert when error conditions are detected;
- receiving identities of a plurality of remote devices designated to receive status from the head-end via the monitor and control unit;
- receiving an indication of capabilities of each remote device of the plurality of remote devices designated to receive status;
- forwarding at least a subset of the received status from the monitor and control unit to the plurality of remote devices, wherein status are forwarded to each remote device of the plurality of remote devices in conformance with the indicated capabilities;
- receiving a response message from a particular remote device; and
- forwarding the response message to the head-end wherein the received response message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the head-end. (emphasis added).

19. A method for monitoring, from a remote location, operation of a head-end in an information distribution system, the method comprising:

- at the remote location, receiving information from the head-end relating to one or more operations performed at the head-end, wherein the received information includes status and indications of possible error conditions relating to the one or more operations performed at the head-end;
- displaying, via a graphical user interface, at a monitor and control unit the received information including at least a video bit rate;
- providing, via the graphical user interface, a user configurable menu to define error conditions;
- providing, via the graphical user interface, an option to activate an audible alert when error conditions are detected;
- receiving, at the remote location, identities and indications of capabilities of one or more remote devices designated to receive the information relating to the one or more operations performed at the head-end; and
- forwarding at least a subset of the received information from the remote location to the one or more remote devices in conformance with the indicated capabilities;

receiving a response message from a particular remote device; and forwarding the response message to the head-end wherein the received response message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the head-end. (emphasis added)

20. A method for remotely monitoring and controlling operation of a head-end in an information distribution system, comprising:
maintaining identities and indications of capabilities of one or more remote devices designated to receive information relating to one or more operations performed at the head-end;
displaying, via a graphical user interface, at a monitor and control unit the received information including at least a video bit rate;
providing, via the graphical user interface, a user configurable menu to define error conditions;
providing, via the graphical user interface, an option to activate an audible alert when error conditions are detected;
providing, from a remote location to one or more remote devices, status from the head-end relating to one or more operations performed at the head-end in conformance with the indicated capabilities;
receiving, at the remote location, from a particular remote device one or more response messages; and
adjusting at least one parameter of a particular operation performed at the head-end in accordance with the one or more response messages. (emphasis added).

The present invention is directed, in part, toward a method to allow personnel with a remote device such as a cell phone or pager to receive a status from the head-end via a monitor and control unit and to send a response message back from the remote device to the head-end via the monitor and control unit to adjust a parameter of an operation of the head-end. (see Abstract, emphasis added). In an exemplary embodiment, a monitor comprises a graphical user interface to display various information specifically related to head end operations, such as video bit rate information. (See Specification, p. 23, ll. 1-19.)

Applicants respectfully submit that Pandya, Jones and Vaid, alone or in any permissible combination fail to teach or to suggest at least the limitation "forwarding the response message to the head-end wherein the received response message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the head-end" as positively recited

in Applicants' independent claims 1 and 19 and similarly included in independent claim 20. The Examiner suggests this limitation is taught by Pandya, among other places, col. 6, ll. 42-66. The Applicants respectfully disagree.

The cited passages by the Examiner and Pandya in general relate to loading specialized software on networked computing devices such that they may assume certain degrees of supervisory function at various times. Pandya explains "a plurality of agents 70 and one or more control points 72 may be deployed throughout distributed network 74 by loading the agent and control point software on networked computing devices such as clients 22 and server 20" (see Pandya, col 6, ll. 49-53). However, it is clear from the preceding and Pandya as a whole that none of what is described therein as *agents* or *control points* are equivalent to the claimed "head-end," but merely computers that happen to have Pandya's described *agent* and/or *control point* software installed thereon.

Moreover, even if Pandya did teach an equivalent structure to a head-end, the method by which functional changes are implemented in the Pandya system do not at all correspond to that of the claimed invention. Unlike the claimed "**forwarding the response message to the head-end**" wherein the received response message from the particular remote device **includes a command to adjust at least one parameter of a particular operation performed at the head-end,**" wherein the operational characteristics of a head-end are specifically controllable by a remote device, Pandya implement global policies with to dictate system configuration. Pandya explains "system policies that define how network resources are to be used may be centrally defined and tailored...at a very basic level, a policy contains rules about how network resources are to be used, with the rules containing conditions and actions to be taken **when the conditions are satisfied**" (see Pandya, col 7, ll. 59-67). That is, changes are not implemented based on the interaction between an equivalent structure to a head-end (which the applicant again respectfully reiterates there is none) and a remote device.

Thus, Pandya does not disclose, teach or suggest an equivalent function to "forwarding the response message to the head-end," much less "a command to adjust

at least one parameter of a particular operation performed at the head-end" responsive to the message.

No argument is put forth in the Office Action suggesting Vaid and/or Jones teaches the claimed **"forwarding the response message to the head-end** wherein the received response message from the particular remote device **includes a command to adjust at least one parameter of a particular operation performed at the head-end.**" The Applicants respectfully submit that Vaid and/or Jones do not teach the claim element either, and thus fail to bridge the substantial gap between Pandya and the Applicants' independent claims 1, 19 and 20.

Consequently, at least for the reasons provided above above, Applicants respectfully submit that Pandya, Jones and Vaid alone or in combination do not teach Applicants' invention of at least independent claims 1, 19 and 20 as a whole and, as such, claims 1, 19 and 20 are not obvious in view of Pandya, Jones and Vaid. It is believed that independent claims 1, 19 and 20 are allowable under 35 U.S.C. §103.

Furthermore, dependent claims 2-3, 6-7, 10-18 and 21 depend directly or indirectly from independent claims 1, 19 and 20 and recite additional limitations thereof. As such and for at least the same reasons discussed above with respect to independent claims 1, 19 and 20, Applicants submit that these dependent claims are also non-obvious and patentable over Pandya, Jones and Vaid under 35 U.S.C. §103. Therefore, Applicants respectfully request that the rejection be withdrawn.

CONCLUSION

Applicants submit that claims 1-3 and 6-7, 10-21 are in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall so appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: _____

4/17/08



Eamon J. Wall, Attorney
Reg. No. 39,414
(732) 530-9404

Patterson & Sheridan, LLP
Attorneys at Law
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702